

## RULE CHANGES ADOPTED DURING 2015

### Rules Order Dated March 2, 2015.

- **Search Warrants.** Amendments to Rule 4-601 (Search Warrants), conform the Rule to Chapter 107, Laws of 2014 (HB 1109), which permits judges to receive applications for search warrants, to issue such warrants, and to file the papers associated with the warrant by secure and reliable electronic means (FAX or electronic mail). Statutory changes created ambiguities about when the warrant, application, and affidavit were to be filed with the clerk. To avoid any ambiguity on that point, the Rule will continue to specify that the filing is to be made after the warrant is executed, the return is made to the judge, and the papers are not filed with the clerk prior thereto. *Effective July 1, 2015.*
- **Workers' Comp Review.** New Rule 7-206.1 and amendments to Rules 7-202, 7-204, 7-206, and 2-603 (b), all pertain to actions for judicial review of Workers' Compensation Commission (WCC) decisions and awards. In part, the new Rule requires that a transcript be prepared but that it not be transmitted to the circuit court unless required by the court, as these cases usually are heard *de novo*. *Effective July 1, 2015.*
- **Communications from Jurors.** Amendments to Rules 2-521 and 4-326 require court employees who receive *any* communication from a juror, written or oral, to notify the presiding judge immediately. The judge will decide whether the communication pertains to the action. *Effective July 1, 2015.*
- **When Pleadings Are Deemed Filed and Judgments Deemed Entered.** Amendments to Rules 1-322 (a), 2-601, 3-601, 7-104, 8-202, and 8-302 clarify when a pleading or other item is deemed to be filed and when a judgment is deemed to be entered. *Effective July 1, 2015.*
- **Motions for Summary Judgment.** Amendments to Rules 2-501 and 2-504 provide that motions for summary judgment should be regarded as pretrial motions, shall be in writing, and are not allowed after the commencement of trial or, absent permission of the court, after the deadline for filing dispositive motions specified in a scheduling order. *Effective July 1, 2015.*
- **Appellate Procedure.** Amendments to Rules 8-501 and 8-503 (attachments to briefs) and 8-606 (appellate mandates) clarify issues regarding appellate filings and state when the clerk shall issue an appellate mandate (ordinarily upon expiration of 30 days after the filing of the opinion or entry of order.) *Effective July 1, 2015.*
- **Limited Scope Representation.** Amendments to MLRPC 1.2 and Rules 1-321, 1-324, 2-131, 2-132, 3-131 and 3-132 permit attorneys to offer their services on a limited scope or "unbundled" basis. The new Rules specify the terms under which limited scope representation is permitted. The Rules also permit attorneys to enter a limited appearance in court, when appropriate. *Effective July 1, 2015.*
- **Collaborative Law.** New Rules 17-501 through 17-507 and related amendments implement the Maryland Uniform Collaborative Law Act. *Effective July 1, 2015.*

- **Fee Waivers.** Amendments to Rule 1-325 and other conforming amendments bring clarity and uniformity to when and how court costs may be waived by reason of a party's indigence. The Rules establish an abbreviated process for fee waivers when an individual is represented by a Maryland legal service provider and require judges to consider the Maryland Legal Services Corp. income guidelines when evaluating fee waiver petitions from other litigants. *Effective July 1, 2015.*
- **Protective Orders.** New Rules 9-301 through 9-309 govern protective orders in domestic violence cases. The new Rules, among other things, allow a petitioner to waive his or her presence at the temporary protective order hearing until the respondent has been served. Petitioners must appear at the first scheduled final protective order hearing, but may be excused from appearing at subsequent hearings until the respondent has been served. Petitioners must register with VINE. *Effective July 1, 2015.*
- **Court Interpreters.** Former Rule 16-819 is repealed and replaced with new Rule 1-333 and amendments to Rules 1-332, 1-303, and 4-642. The new Rule establishes that parties need only request an interpreter one time. The court must arrange for an interpreter for subsequent proceedings without an additional request. The Rule also provides that interpreters are available for court-ordered services, as specified in an administrative order, and makes other changes to the interpreter program. *Effective July 1, 2015.*
- **Subpoenas.** Amendments to Rules 2-510, 3-510, 4-265, and 4-266 clarify the proper use of subpoenas, provide for the methods by which subpoenas may be issued by the clerks, provide for a uniform form of subpoena usable by both circuit and District Courts in civil and criminal matters, and require that subpoenas be served within 60 days after issuance. *Effective July 1, 2015.*
- **Funding of Judicial Branch Agencies.** Amendments to Rule 16-101 provide that judicial units that are funded through appropriations to the Judicial Branch, whose budgets are subject to approval by the Court of Appeals or its Chief Judge, or that are subject to audit by the Court of Appeals, the Administrative Office of the Court, or the State Court Administrator, must prepare their proposed budgets and exercise procurement and personnel decisions in conformance with the standards and guidelines promulgated by the State Court Administrator. *Effective July 1, 2015.*

#### **Rules Order Dated September 17, 2015**

- **Costs in Attorney Discipline Cases.** Amendments to Rules 16-761 and 16-758 provide that fees and expenses of expert witnesses who testified in the proceeding before the circuit court judge in these cases should be included as costs. The Rules also make other clarifications. *Effective January 1, 2016.*
- **Formatting and Length of Appellate Briefs.** Amendments to Rules 8-112 and 8-503, with conforming amendments in related Rules, retain page limits in lieu of word count maximums for certain typewritten documents; delete provisions pertaining to horizontal scaling, kerning, and line length; require the use of a font approved by the Court of Appeals in printed and computer-

generated papers; change spacing requirements from 1.5 spaces to double-spacing between lines in printed and computer-generated papers; and require a side margin of at least 1 inch on each side of a page. Amendments also change the length of briefs from a page count to a word count, providing a limit of 9,100 words in the Court of Special Appeals or 13,000 words in the Court of Appeals. Other documents with page limits have word count limits based on a conversion factor of 260 times their former page limits. *Effective January 1, 2016.*

- **Pro Bono Attorneys (Out-of-State Bar Members).** New Rules 16-904, and 16-905 and amendments to Rule 16-811.5 and RGAB 15 permit out-of-state attorneys to practice pro bono in Maryland as “pro bono attorneys,” without paying in to the Client Protection Fund, or otherwise becoming a member of the Maryland Bar, provided they work in certain conditions under the supervision of a Maryland legal services organization. *Effective January 1, 2016.*
- **Permanent Retirement as Option in Attorney Discipline Cases.** New Rule 16-738 provides an attorney who is the subject of a complaint or allegation that could lead to discipline or inactive status the option of permanent retirement as long as the attorney’s conduct did not result in actual loss or harm to someone and did not reflect adversely on the attorney’s honesty. *Effective January 1, 2016.*
- **Proper Scope of Motion in Appellate Court to Correct the Lower Court Record.** Amendments to Rules 8-414 and 8-413 clarify the proper scope of such motions. The court ordinarily may not order an addition to the record of new facts, documents, or evidence but may consider facts of which it can take judicial notice. *Effective January 1, 2016.*
- **Master to Magistrates.** Changes to several Rules, including Rules 1-501, 2-504.1, 2-510, and 2-541, implement recent legislation, which changes the title of all “masters” in the court system to “magistrates.” *Effective January 1, 2016.*
- **Custody Evaluators.** New Rule 9-205.3, creates a procedure for the appointment or approval by the circuit courts of qualified individuals to conduct custody and visitation assessments in cases where those matters are in dispute. The new Rule defines the different kinds of assessments that a court may want, sets minimum qualifications for individuals chosen to perform those assessments, requires a maximum fee schedule for individuals appointed by the court, provides for access to the assessor’s report by the parties and the judge, and provides for allocating the cost of the assessors among the parties. *Effective January 1, 2016.*
- **Out-of-State Attorneys to Serve Pro Bono.** Amendments and additions to the Rules Governing Admission to the Bar (RGAB) and the Rules currently in Title 16 create new opportunities for out-of-state attorneys to serve pro bono in Maryland without having to become a member of the Bar or pay into the Client Protection Fund. New Rule 16-904 would permit out-of-state attorneys who comply with the applicable provisions of RGAB 15 and Maryland attorneys on retired/inactive status under Rule 16-811.5 (a)(2) to practice as pro bono attorneys, without compensation. *Effective January 1, 2016.*
- **Military Spouse Attorneys.** A new rule, RGAB 15.1, would permit “military spouse attorneys” who are members in good standing of the bar of another state to practice in Maryland for a limited period and under certain conditions. *Effective January 1, 2016.*

- **Appellate Procedures.** Amendments to Rules 8-412, 8-502, 8-431, 8-511, 8-522, and 8-605 clarify when a brief must be filed, when a motion must be supported by affidavit, and issues concerning replies to amicus briefs. They also limit oral argument to 20 minutes per side in the Court of Special Appeals and require a motion for reconsideration to include certain information. *Effective January 1, 2016.*
- **Orphans' Court.** Changes to the Title 6 Probate Rules and to Guardianship and Fiduciary Rules in Title 10 make it easier for unrepresented persons to deal with the probate procedures, implement statutory changes, create more uniformity, and clarify certain provisions. *Effective January 1, 2016.*
- **Attorney Trust Accounts.** An amendment to Rule 16-602 alters the definition of "financial institutions" to include credit unions. *Effective January 1, 2016.*

#### **Rules Order Dated December 7, 2015 [1 of 3]**

- **MDEC.** Amendments to Rules 20-101, 20-102, 20-103, 20-106, 20-107, 20-203, and 1-311 concern MDEC. The reference to the sequence of MDEC implementation is removed from the Rule to be declared in an administrative order instead. References to a required policy and procedures document are deleted as that has been published online. The amendments also require an attorney to include his or her CPF number on all filings. *Effective January 1, 2016.*
- **Implementing Statutory Changes.** Amendments to a broad range of Rules implement statutory changes from the 2015 session, including guardianships, access to court records, supersedeas bonds, bail bonds, expungements, and others. *Effective January 1, 2016.*
- **Remove References to Death Penalty Cases.** Amendments were made to a number of Rules to delete references to death penalty cases. *Effective January 1, 2016.*
- **COSA Procedures.** Revisions to the Title 17, Chapter 400 Rules, and Rule 8-206 clarify procedures with regard to mediation, prehearing conferences, and scheduling conferences operated by the Court of Special Appeals. *Effective January 1, 2016.*
- **Default Judgments.** An amendment to Rule 1-321 requires that a request for entry of judgment arising out of an order of default under Rule 2-613 be served on the defaulting party to permit that party to contest the amount of damages or other relief. *Effective January 1, 2016.*
- **Judgments in Circuit Court.** Amendments to Rules 2-601 and 2-603 require the judgment to include a statement regarding the allowance of costs, require the judge to determine the prevailing party if the clerk has any question about who the prevailing party is, and permit a motion for court review of the clerk's assessment of costs within 10 days after notice. *Effective January 1, 2016.*
- **Audio and Video Depositions.** Amendments to Rules 2-412, 2-415, 2-416, and 2-419 permit and set guidelines for the taking of depositions by electronic audio and audio-video means, and not just by audio or video tape. *Effective January 1, 2016.*

- **Charging Documents.** Amendments to Rule 4-203 prohibit charging documents from containing charges against more than one defendant. *Effective January 1, 2016.*
- **Appointment of Counsel.** An amendment to Rule 4-707 implements recent case law. *Effective January 1, 2016.*
- **Extension of Time on Remand.** An amendment to Rule 2-321 provides an automatic extension of the time for filing an answer when a matter is remanded from an appellate or federal court. *Effective January 1, 2016.*

#### **Rules Order Dated December 7, 2015 [2 of 3]**

- **Structured Settlement Agreements.** New Rules promulgated as Chapter 1300 of Title 15, and amendments to Rules 1-101 and 16-1007 provide structure and guidance for the handling of petitions to approve the transfer of payment rights under structured settlement agreements. *Effective January 1, 2016.*
- **Sentencing in Drug Cases.** Changes were made to cross-reference a 2015 statute in Rule 4-342 that permits judges, in certain drug cases, not to impose legislatively mandated non-parolable sentences if certain findings are made on the record. *Effective January 1, 2016.*
- **Limited Appearances.** Amendments to Rules 2-131 and 3-131 clarify that when an attorney enters a limited appearance, the representation must include the performance of subsidiary procedural tasks that are essential to the achievement of the objective of the representation. *Effective January 1, 2016.*

#### **Rules Order Dated December 7, 2015 [3 of 3]**

- **Professionalism Course Replaced by Orientation.** Amendments to Rule 16-407 and Rules 10, 11, 13, and 19 of the Rules Governing Admission to the Bar remove the requirement that new admittees take a full-day professionalism course. The revised Rules provide that new admittees must complete an orientation program to be administered as a three-hour online course.